

VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

TANK VESSEL REQUIREMENTS

Since 1992 Virginia has regulated tank vessels transporting oil in state waters. As of June 24, 1998 the regulations for tank vessel Oil Discharge Contingency Plans (ODCP) and tank vessel financial responsibility (TVFR) were consolidated into a single regulation (9 VAC 25-101-10 et seq.) Although the basic provisions of the regulation remain the same, there are changes that affect tank vessels transporting oil into Virginia waters. The following pages will provide information to tank vessel operators as to changes in the new regulation, a review of the existing requirements and will assist with the correct and efficient application for ODCP and TVFR approvals.

Operators of regulated tank vessels entering Virginia waters must have approval of an ODCP and evidence of TVFR to be in compliance with Virginia law. The staff at the Department of Environmental Quality (DEQ) is committed to providing assistance to tank vessel operators to ensure regulatory compliance and environmental protection. Questions are encouraged and welcomed. If you have additional questions, feel free to contact me at the phone number below or by e-mail. Electronic copies of the forms can be obtained by return e-mail and copies of the regulation, all forms and instructions are also available on the DEQ web site (www.deq.state.va.us).

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VIRGINIA TANK VESSEL REQUIREMENTS

What's new?

U *single regulation for all tank vessel requirements*

Previous regulations (9 VAC 25-100-10 et seq., formerly VR680-14-08 and 9 VAC 25-90-10 et seq., formerly VR680-14-07) were combined and divided to have a single regulation for tank vessels (9 VAC 25-101-10 et seq.) and one for on shore oil storage facilities (9 VAC 25-91-10 et seq.) The new regulations, for both tank vessels and facilities, became effective on June 24, 1998. The previous regulations were repealed upon this effective date.

U *opportunity for waiver of application fees*

The DEQ has determined that U. S. Coast Guard requirements for tank vessel financial responsibility and vessel response plans meet or exceed Virginia's requirements. In support of the ~~A~~single plan concept of oil spill response planning and relief from duplicative regulations, the DEQ has provided the opportunity for tank vessel operators to submit Coast Guard approved documents to meet Virginia requirements. Because of the streamlined process to review and approve applications based on Coast Guard approval, the application fees have been waived.

U *new application forms must be submitted*

As of the effective date of the new regulation or upon expiration of current approval, new forms for approval of tank vessel financial responsibility (TVFR) and an oil discharge contingency plan (ODCP) must be submitted. To facilitate the annual renewal of TVFR as required by law, a new form was developed to simplify the process. Because of the complex nature of international oil transportation, a new form was developed to designate an agent to act on behalf of the operator to renew TVFR and submit updated information to the DEQ. Although rarely used, new forms for application of TVFR approval using insurance, surety or guaranty means are also available. Electronic copies of all forms are available from the DEQ, but signed originals must be received in order to process the applications.

U *Public vessels~~@~~ exempt from entire tank vessel regulation*

Public vessels are exempt from all provisions of the new regulation. Public vessel means a vessel owned or bareboat-chartered and operated by the United States, by a state or political subdivision or a foreign nation, except when the vessel is engaged in commerce. However, all requirements for reporting, containment and cleanup of oil discharges still apply to public vessels.

VIRGINIA TANK VESSEL REQUIREMENTS

What's the same?

U *applies to tank vessels*

Requirements apply to all tank vessels with 15,000 gallons or more of bulk cargo capacity transporting or transferring oil upon Virginia waters. Does **not** include public vessels or vessels engaged only in activities within state waters related to the containment and cleanup of oil, including response-related training or drills.

U *must have approved TVFR*

The operator of a tank vessel entering Virginia waters shall deposit with the state cash or its equivalent in the amount of \$500 per gross ton of such vessel. Tank vessel operators may obtain exemption from the cash deposit if evidence of financial responsibility is provided in an amount equal to the respective cash deposit. The acceptable means of providing such evidence are: self-insurance, insurance, surety or guaranty. Acceptance of evidence of financial responsibility expires one year from the date the department exempts an operator from the cash deposit requirement based on the acceptance of self-insurance.

U *must have approved ODCP*

No tank vessel operator shall cause or permit a tank vessel to transport or transfer oil in Virginia waters unless an oil discharge contingency plan has been approved by the DEQ. The plan must ensure that the operator can take such steps necessary to protect environmentally sensitive areas, to respond to the threat of an oil discharge and to contain, cleanup and mitigate the discharge within the shortest feasible time. A plan may include multiple vessels and is effective for five years from receipt of a complete application. Though the DEQ may require an oil discharge exercise to demonstrate the operator's ability to implement the plan, the operator will be consulted prior to initiating the exercise.

U *definition of Oil*

Oil means all petroleum and petroleum by-products, fuel oil, lubricating oils, sludge, oil refuse, oil mixed with other wastes, crude oils and all other liquid hydrocarbons, regardless of specific gravity. The tank vessel regulation does **not** include propane, nonpetroleum hydrocarbon-based animal or vegetable oils or petroleum or other products (including crude oils or any fraction thereof) which is specifically listed as a hazardous substance under CERCLA (42 USC 9601 et seq.)

What's the same? (Continued)

U *definition of Operator*

AOperator@means any person who owns, operates, charters by demise, rents or otherwise exercises control over or responsibility for the vessel. A Aperson@may be a firm, corporation, association or partnership of one or more individuals.

U *penalties for non-compliance*

Article 11 of the State Water Control Law (' ' 62.1-44.34:14 through 20) describes penalties for failure to obtain approval of the oil discharge contingency plan, failure to maintain evidence of financial responsibility, failure to cooperate in spill containment and cleanup, failure to report an oil discharge and failure to implement a contingency plan. Approval of the oil discharge contingency plan and acceptance of evidence of financial responsibility can be revoked if obtained by fraud or misrepresentation as well as for violations of other provisions of the article.

List of Tank Vessel Forms (9 VAC 25-101-10 et seq.)

Standard forms for approval

Application for Approval of Evidence of Tank Vessel Financial Responsibility (TVFR), DEQ101-6 (7/99).

Annual Certification of Evidence of Tank Vessel Financial Responsibility, DEQ101-7 (7/99).

Agent Designation Form for Commonwealth of Virginia Tank Vessel Oil Discharge Contingency Plan (ODCP) and Financial Responsibility Requirements, DEQ101-2 (4/98).

Application for Approval of a Tank Vessel Oil Discharge Contingency Plan (ODCP), DEQ101-1 (7/99).

Forms rarely used

Insurance Form Furnished as Evidence of Financial Responsibility in Respect of Liability for Discharge of Oil Under ' 62.1-44.34:16 of the Code of Virginia and 9 VAC 25-101-50-A, DEQ101-3 (3/98).

Surety Bond Form Furnished as Evidence of Financial Responsibility of Liability for Discharge of Oil Under ' 62.1-44.34:16 of the Code of Virginia and 9 VAC 25-101-50-A, DEQ101-4 (3/98).

Guaranty Form Furnished as Evidence of Financial Responsibility of Liability for Discharge of Oil Under ' 62.1-44.34:16 of the Code of Virginia and 9 VAC 25-101-50-A, DEQ101-5 (3/98).

SUPPLEMENT TO VESSEL RESPONSE PLAN

OIL SPILLS TO VIRGINIA WATERS MUST BE REPORTED!

In addition to reporting an oil discharge to the National Response Center (U. S. Guard requirements) the operator of a vessel from which there is a discharge of oil to Virginia state waters **must report immediately upon learning** of the discharge and implement the vessel response plan. Reports are made to the Department of Environmental Quality (Tidewater Regional Office) at **757-518-2000** during the hours of 8:15 AM to 5:00 PM, Monday through Friday. At other times, report oil discharges to Department of Emergency Services at **804-674-2400**.

L Please note:

U Discharge means any spilling, leaking, pumping, pouring, emitting, emptying or dumping.

U Oil means petroleum of any kind, including fuel oil, lubricating oil, crude oil, petroleum by-products, sludge, oily wastewater or any oil that causes a film, sheen or discoloration upon the water surface or adjoining shorelines or causes a sludge or emulsion to be deposited beneath the surface of the water or adjoining shorelines.

U State Waters means all water on the surface or under the ground within the borders of Virginia and within three (3) nautical miles of the Virginia shoreline.